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9 Attorney for Debtor(s)

E-Filed: August 30, 2010

10 **UNITED STATES BANKRUPTCY COURT**

11 **DISTRICT OF NEVADA**

12 In Re:

Case No.: BK-S-09-19865-lbr

13 CYNTHIA DEL ROSARIO

Chapter 13

14 (XXX-XX-5374),

Date: September 15, 2010

15 Debtor(s).

Time: 10:30 a.m.

Trustee: Rick A. Yarnall

16 **LIMITED OPPOSITION**

17 The Debtor, CYNTHIA DEL ROSARIO, (hereinafter "Debtor"), by and through her
18 attorney, Laura L. Fritz, Esq., of the law firm of ANDREW S. T. FRITZ, LTD., opposes the motion
19 of The New York Bank of Mellon as successor in interest to JP Morgan Chase, (hereinafter
20 "Creditor"), for relief from the automatic stay.

21 **POINTS AND AUTHORITIES**

22 **RELEVANT FACTS**

- 23 1. On June 10, 2009, the Debtor filed a chapter 13 bankruptcy.
- 24 2. The Debtor does not agree with the delinquent amount. Proof of all payments made since
- 25 January 2010 were forwarded to The New York Bank of Mellon's local counsel, the law
- 26 firm of WILDE & ASSOCIATES on August 30, 2010. Proof of the payments is linked to
- 27 this Limited Opposition as Exhibit #1.
- 28

- 1 3. The loan is serviced by America's Servicing Company.
- 2 4. In the letter dated December 11, 2009, the Debtor was offered a special forbearance that
- 3 lowered her payments to \$1,338.99 for January 2010 through March 2010. The letter has
- 4 been linked to this Limited Opposition as Exhibit #2.
- 5 5. In the letter dated June 9, 2010, the Debtor was informed that due to a recent escrow
- 6 analysis that her payment would adjust to \$1,346.98 beginning with the payment due
- 7 August 1, 2010. The letter has been linked to this Limited Opposition as Exhibit #3.
- 8 6. The Debtor would like to move forward with an Adequate Protection Order to resolve
- 9 any remaining late penalties and/or attorney's fees.
- 10

11 **APPLICABLE LAW**

12 11 U.S.C. Section 362(d) allows for the modification or termination of the automatic stay
13 for cause, including the following:

- 14 (1) for cause, including the lack of adequate protection of an interest in property of such
- 15 party in interest; or
- 16 (2) with respect to a stay of an act against property under subsection (a) of this section, if-
- 17 (A) the debtor does not have an equity in such property; and
- 18 (B) such property is not necessary to an effective reorganization.

19 The Debtor wants to retain the home and resume payments. Pursuant to subsection (A),
20 there may be equity in the home. In addition, the home is necessary to an effective
21 reorganization pursuant to subsection (B).

22 Accordingly, the Debtor respectfully requests a continuance so that an Adequate
23 Protection Order may be drafted and filed with the courts. If Adequate Protection is entered into
24 prior to the hearing then this Limited Opposition would be taken off calendar.

25
26 Dated: August 30, 2010

27 /S/ Laura L. Fritz, Esq.
28 ANDREW S. T. FRITZ, LTD.
Laura L. Fritz, Esq.
Attorney for the Debtor(s)